

1 IN THE UNITED STATES DISTRICT COURT
 2 EASTERN DISTRICT OF MICHIGAN
 3 ELIZABETH MOELLER, individually)
 4 and on behalf of all other)
 5 similarly situated)
 6 Plaintiff,)
 7 vs.) Case No. 22-10666
 8 THE WEEK PUBLICATIONS, INC.) Bay City, Michigan
 9 Defendant.) October 5, 2023
 10) 3:21 p.m.

11 TRANSCRIPT OF MOTION
 12 BEFORE THE HONORABLE THOMAS L. LUDINGTON
 13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 For the Plaintiff: E. POWELL MILLER
 16 The Miller Law Firm
 17 950 W. University Drive; Suite 300
 18 Rochester, MI 48307
 19 For the Plaintiff: PHILIP L. FRAIETTA
 20 JOSEPH I. MARCHESE
 21 Bursor & Fisher
 22 1330 Avenue of the Americas; 32nd Floor
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 24 For the Defendant: DAVID C. ANDERSON
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 Southfield, MI 48075
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 TRANSCRIBER NOT PRESENT AT LIVE PROCEEDINGS

P R O C E E D I N G S

(At 3:21 p.m., proceedings commenced.)

THE CLERK: Your Honor, calling the case of Moeller versus The Week Publications. The Case No. is 22-10666.

THE COURT: Counsel, if we could have introductions, please.

MR. MILLER: Powell Miller for the class.

MR. FRAIETTA: Phil Fraietta also for the class.

MR. MARCHESE: Good afternoon, Joseph Marchese, Bursor & Fisher.

THE COURT: Good afternoon, gentlemen.

MR. ANDERSON: Good afternoon, Your Honor. David Anderson for the defense.

THE COURT: And good afternoon, Mr. Anderson.

Mr. Miller, if you'd like to give us a brief overview of the progress of the case, I would note that it was commenced back in March of 2022 with amended complaints filed later on during the course of the year.

We preliminarily approved the settlement that brings you here today back in January of this year, and we'd like to provide you an opportunity to cover anything that you'd like for your record, sir.

MR. MILLER: Thank you, Your Honor. This is one of the rare instances where lightning truly does strike twice. This is also Judge Rosen, also the mediator, the architect, the

1 mediator's proposal, so both sides on this did a -- did a
2 wonderful job.

3 The amount -- the average amount -- it works out to
4 248 per class member, exactly the same as the Strano case that
5 you just approved. The total amount of this one is \$5,082,870.

6 The attorney fee request is the same. The service
7 award is the same, and it's the same authority that I rely on
8 in our brief. Every Eastern District of Michigan judge who has
9 reviewed an attorney fee application with this team has awarded
10 at least 35 percent, and that's four or five different cases.
11 And Judge Steeh in a different PPPA case -- I'm repeating it
12 just because it's a different record -- awarded 40 percent, so
13 we are well within the precedent in the Eastern District of
14 Michigan.

15 And we're proud -- it's important to me to vindicate
16 public confidence in the class action device because there has
17 been some abuses of class actions. I acknowledge that. And
18 I've worked really hard on any case I'm ever involved in to
19 hopefully improve public and judicial confidence in the class
20 action device, which I think is an essential tool to have a
21 curb of -- on corporate wrongdoing. And that's why you're not
22 going to see my name on settlements that are illusory, where
23 the lawyers get the money and there's a big reversion back to
24 the defendants. There's no reversion here.

25 All of the money is going to go to the class other

1 than obviously the attorney's fees and reimbursement of
2 expenses, and no claim form at all. The checks are just mailed
3 to the class members. And I believe I've now had four class
4 action settlements where we've achieved a 100 percent net
5 recovery with no claim form with attorney's fees on top.

6 We didn't get there on this one, but we did get the
7 second highest tie for the PPPA class settlements in the state.
8 So this is a tie for second place with Strano and first place
9 will be when we're before you in January on the KSC case, so
10 that's -- that's my record, and I'm here to answer any
11 questions Your Honor may have.

12 THE COURT: And I noticed that by a percentage point
13 at least that you reached members of the class by email or
14 postcard in 96.5 percent of class members.

15 MR. MILLER: Yes, and I should have indicated that,
16 but, yes, Your Honor.

17 THE COURT: Defendant have anything you'd like to
18 cover?

19 MR. ANDERSON: Nothing to add, Your Honor. Thank
20 you.

21 THE COURT: In similar fashion, the Court is
22 satisfied with the notification that has been furnished to
23 class members. The notification satisfies, in our view, the
24 requirements for both due process as well as the procedures
25 outlined in Rule 23.

1 Also find the settlement and provisions for legal
2 counsel to be fair, reasonable and adequate. As a result, we
3 will be granting final approval, as well as certifying the fact
4 that the class settlement complies with Federal Rule of Civil
5 Procedure 23(a) as well as 23(b)(3).

6 Counsel, anything further this afternoon that you'd
7 like to cover on your record?

8 MR. MILLER: No. Thank you, Your Honor.

9 MR. ANDERSON: No, thank you.

10 THE COURT: Thank you for your time and attention
11 this afternoon. Our record's closed.

12 (At 3:26 p.m., court recessed.)

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16 C E R T I F I C A T E

17 I certify that the foregoing is a correct transcript
18 from the digital sound recording of the proceedings in
19 the above-entitled matter.

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21 Date: 10-10-2023

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